

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO,
individually and on behalf of all similarly
situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No. 5:20-cv-03664-LHK

**DEFENDANT'S RESPONSES AND OBJECTIONS TO PLAINTIFFS'
NOTICE OF RULE 30(B)(6) DEPOSITION**

Pursuant to Rules 26, 30, and 34 of the Federal Rules of Civil Procedure, Defendant Google LLC ("Google") hereby responds and objects to Plaintiffs' May 24, 2021 Notice of Rule 30(b)(6) Deposition (the "Notice"). These objections and responses are made solely for the purpose of and in relation to this action, and any production in response will be subject to the Protective Order governing this case (Dkt. 81). In addition, the objections and responses set forth in this document are based on Google's knowledge, investigations, and analysis to date. As discovery proceeds, Google may become aware of additional facts or evidence and its analysis of the case may change. Google reserves all rights to supplement and amend its objections and responses accordingly.

GENERAL OBJECTIONS

The following General Objections apply to each and every deposition topic propounded by Plaintiffs and are incorporated into each of Google's responses by reference as if set forth fully therein. A specific response may repeat a General Objection for emphasis or some other reason. The failure to include any General Objection in any specific response shall not constitute a waiver of any General Objection to that deposition topic.

1. Google objects to each topic in the Notice to the extent it seeks information protected by the attorney-client privilege, attorney work product immunity, or other privilege, immunity, or protection afforded by law ("Privileged Information"). Google will not disclose Privileged

1 Information in response to the Notice, and any undertaking by Google to respond to the Notice,
2 including the designation of persons for deposition testimony to be taken, should be understood to
3 exclude Privileged Information.

4 2. Google objects to each topic in the Notice to the extent that it seeks to impose
5 obligations and demands on Google greater or more extensive than those imposed by the Federal
6 Rules of Civil Procedure, the Local Rules of the United States District Court for the Northern
7 District of California, this Court's orders and instructions, or any other applicable authority.

8 3. Google objects to the Notice to the extent that the "Definitions" purport to enlarge,
9 expand, or alter in any way the plain meaning and scope of any specific topic where such
10 enlargement, expansion, or alteration renders said topic vague, ambiguous, overbroad, unduly
11 burdensome, harassing, incomprehensible, or calling for information that is neither relevant nor
12 proportional to the needs of the case. Where a term is vague and ambiguous, Google will respond
13 based on its understanding of the term.

14 4. Google's responses to each topic in the Notice shall not be construed in any way as
15 an admission that any definition provided by Plaintiffs is either factually correct or legally binding
16 on Google.

17 5. Google objects to each topic in the Notice to the extent that it prematurely seeks
18 disclosure of information before Google is required to disclose such information in accordance with
19 any applicable law or rule, such as the Northern District of California Local Rules and any order in
20 this action.

21 6. Google objects to each topic in the Notice to the extent that it is vague, ambiguous,
22 unintelligible, overbroad, unduly burdensome, or seeks information that is not relevant to the subject
23 matter of this action or not proportional to the needs of the case. Google notes that many of the
24 topics in the Notice are so broad and general, including as to time period, that it would be practically
25 impossible to educate any one person to testify at a granular level on the topics. Accordingly, where
26 Google has agreed to produce a witness to testify on a particular topic, the witness will be prepared
27 to provide a reasonable level of detail on the topic. *See United States v. HVI Cat Canyon, Inc.*, 2016
28 WL 11683593, at *9–11 (C.D. Cal. Oct. 26, 2016) (explaining that "[i]t is simply impractical to

1 expect Rule 30(b)(6) witnesses to know the intimate details of everything” and holding that the
2 broad scope of the topics in deposition notice “would make witness preparation a nearly impossible
3 task”).

4 7. Google objects to each topic in the Notice to the extent that it calls for legal
5 conclusions or information that is more properly the subject of expert discovery.

6 8. Google objects to each topic in the Notice to the extent that it seeks information in a
7 format or at a level of detail other than that which is ordinarily kept and maintained by Google in
8 its regular course of business.

9 9. Google objects to each topic in the Notice to the extent that it requests Google to
10 provide “all” or “any” information or documents about a particular subject, on the grounds that such
11 requests are overbroad and unduly burdensome, seeking information, documents, and/or things that
12 are neither relevant nor proportional to the needs of the case.

13 10. Google objects to Plaintiffs’ definition of “document(s)” in the “Definitions” section
14 of the Notice as vague, ambiguous, overly broad, and unduly burdensome to the extent that the
15 definition exceeds the scope of documents set forth in the Federal Rules of Civil Procedure, the
16 Local Rules of the Northern District of California, or this Court’s orders and instructions.

17 11. Google reserves the right to supplement, amend, modify, or correct its responses to
18 the topics in the Notice as additional pertinent evidence becomes available. The disclosure of any
19 irrelevant information is not to be construed as a waiver of any claim of irrelevance.

20 12. The parties are currently negotiating a joint deposition protocol in *Brown et al. v.*
21 *Google, LLC*, No. 5:20-cv-03664-LHK-SVK and *Calhoun v. Google LLC*, No. 5:20-cv-5146-LHK-
22 SVK and, depending on the protocol’s final terms, this deposition may be subject to that protocol.

23 13. Any objection by Google does not constitute a representation or admission that such
24 information does in fact exist or is known to Google.

25 14. Google’s responses to each topic in the Notice or agreement to designate a witness
26 with respect to these deposition topics shall not be construed in any way as an admission that any
27 statement by Plaintiffs set forth in the topics is either factually correct or legally binding upon
28 Google.

1 **SPECIFIC OBJECTIONS AND RESPONSES TO DEPOSITION TOPICS**

2 Subject to the foregoing General Objections, Google objects and responds to Plaintiffs’
3 deposition topics as follows:

4 **TOPIC NO. 1:**

5 Back to June 1, 2014, all changes to Google’s disclosures to or agreements with users related
6 to private browsing, user controls, and/or data collection in the Google Terms of Service, Google
7 Privacy Policy, Chrome Privacy Notice, Chrome Terms of Service, Chrome splash screen for
8 Incognito Mode, the Search & Browse Privately page, and My Google Activity, including but not
9 limited to identifying the specific changes made during the Class Period, the person(s) with the most
10 knowledge regarding the changes, the reasons for the changes, and the analysis and/or decision
11 making involved with the changes.

12 **RESPONSE TO TOPIC NO. 1:**

13 Google incorporates its General Objections as if set forth fully herein. Google further objects
14 to this Topic to the extent it seeks information outside of the proposed Class Period, which
15 information is irrelevant. Google further objects to this Topic on the ground that the terms “user
16 controls” and “data collection,” which are neither self-evident nor defined, are vague and
17 ambiguous. Google further objects to this Topic on the grounds that requests for “persons(s) with
18 the most knowledge” on certain subjects should first be addressed through interrogatories. *See*
19 *Rodriguez v. Google LLC*, Case No. 20-cv-04688-RS (AGT), Dkt. 111 (June 4, 2021). Google
20 further objects to this Topic on the ground that it uses the phrases “including but not limited to”
21 because the use of such phrase fails to satisfy Rule 30(b)(6)’s requirement that Plaintiffs “describe
22 with reasonable particularity the matters for examination.” Google further objects to this Topic as
23 overly broad and unduly burdensome because it seeks detailed information regarding “all changes”
24 made to at least seven different documents or web pages over a seven-year period, “including but
25 not limited to ... the reasons for the changes, and the analysis and/or decision making involved with
26 the changes.” Google should not be required to prepare a witness on changes to the documents at
27 issue that are not relevant to the case and about which Plaintiffs are unlikely to ask any questions.
28 Moreover, Plaintiffs have the documents in question and can identify the changes that they believe

are relevant by comparing the various versions of the documents. If Plaintiffs identify a reasonable set of changes about which they want to ask a Google representative questions, and assuming Google agrees that the changes Plaintiffs identify are more appropriately explained by a corporate representative rather than a fact witness, Google will consider amending its response to this Topic. As it stands, however, the Topic is facially overbroad and unduly burdensome and therefore Google will not produce a witness to testify on this Topic.

TOPIC NO. 2:

Back to June 1, 2014, Google’s disclosures to or agreements with users regarding private browsing, including but not limited to what agreement Google intended to obtain or what Google intended to disclose with regard to private browsing and/or Google’s data collection practices via, without limitation, the Google Terms of Service, Google Privacy Policy, Chrome Privacy Notice, Chrome Terms of Service, Chrome splash screen for Incognito Mode, the Search & Browse Privately page, My Google Activity, or any FAQ or embedded or referenced link, from Google’s Google Terms of Service, Google Privacy Policy, Chrome Privacy Notice, Chrome Terms of Service, Chrome splash screen for Incognito Mode, the Search & Browse Privately page, or the My Google Activity page in effect during the Class Period (for the avoidance of doubt, these include all disclosures and statements made by Google that are cited in the Second Amended Complaint).

RESPONSE TO TOPIC NO. 2:

Google incorporates its General Objections as if set forth fully herein. Google further objects to this Topic to the extent it seeks information outside of the proposed Class Period, which information is irrelevant. Google further objects to this Topic on the ground that the phrase “what agreement Google intended to obtain” is vague and ambiguous. Google further objects to this Topic on the ground that it uses the phrases “including but not limited to” and “without limitation” because the use of such phrases fails to satisfy Rule 30(b)(6)’s requirement that Plaintiffs “describe with reasonable particularity the matters for examination.” Google further objects to this Topic as overly broad and unduly burdensome because it seeks unspecified information regarding each “disclosure or agreement” regarding private browsing made in potentially dozens of documents—some of which do not even mention private browsing (rendering the Topic even further vague and ambiguous)—

1 over a seven-year period. Subject to the foregoing objections, Google will produce a witness to
 2 testify about the meaning of the disclosures and statements made by Google regarding private
 3 browsing that are quoted in paragraph 42 of the Second Amended Complaint.

4 **TOPIC NO. 3:**

5 Back to June 1, 2014, Google’s disclosures to or agreements with users or websites regarding
 6 twice-baked cookies/crackers, including but not limited to:

- 7 a. What Google disclosed to Google users or websites regarding Google’s use of twice-
 8 baked cookies/crackers, including what twice-baked cookies/crackers are and how
 9 twice-baked cookies/crackers can be utilized during private browsing sessions;
- 10 b. Where (if at all) Google disclosed to Google users or websites its use of twice-baked
 11 cookies/crackers, including what twice-baked cookies/crackers are and how twice-
 12 baked cookies/crackers can be utilized during private browsing sessions; and
- 13 c. The means, choices, or options Google offers to Google users or websites to prevent
 14 users and/or their devices from being identified by Google as authenticated or
 15 unauthenticated (e.g., via a twice-baked cookie/cracker) during internet browsing
 16 sessions, including where those means, choices, or options are disclosed.

17 **RESPONSE TO TOPIC NO. 3:**

18 Google incorporates its General Objections as if set forth fully herein. Google further objects
 19 to this Topic to the extent it seeks information outside of the proposed Class Period, which
 20 information is irrelevant. Google further objects to this Topic as vague and ambiguous as to the
 21 terms “twice-based cookies/crackers,” which are neither self-evident nor defined, and are not terms
 22 Google uses in the ordinary course of business, making this Topic unintelligible. Google did not
 23 make any disclosures that refer to “twice baked cookies/crackers” because Google does not use
 24 those terms and does not understand what they mean in the context of this case. Google has and
 25 does make disclosures about cookies generally, *see, e.g.,*
 26 <https://policies.google.com/technologies/cookies?hl=en-US> (How Google Uses Cookies), but this
 27 Topic appears to seek information that Google does not possess. Google further objects to this
 28 Topic on the ground that questions such as “[w]hat [information] Google disclosed to Google users

or websites,” “[w]here Google disclosed [information] to users or websites,” and “[t]he means, choices, or options Google offers to Google users or websites to prevent users and/or their devices from being identified by Google as authenticated or unauthenticated,” and “where those means, choices, or options are disclosed,” can be answered by reviewing Google’s public disclosures online (including the archived versions, which are also available online), and the public disclosures that Google has already produced in this case, *see, e.g.*, GOOG-BRWN-00000001-23908; GOOG-BRWN-00023917-25552; GOOG-BRWN-00026860-26861; GOOG-BRWN-00026870-28739; GOOG-BRWN-00031263-35622; GOOG-BRWN-00035634-40942; GOOG-BRWN-00043713-46765 , and/or by serving interrogatories. Google further objects to this Topic as overly broad and unduly burdensome to the extent it seeks information regarding Google processes that are irrelevant to the collection, use, or storage of data from private browsing users. Plaintiffs’ purported classes are composed solely of users who were in private browsing mode, and thus they are not entitled to discovery that relates solely to users not using private browsing mode. *See, e.g., Ali v. Gilead Sci., Inc.*, 2018 WL 3491905, at *3 (N.D. Cal. July 20, 2018) (“The Court denies RFP No. 11 [seeking documents regarding non-U.S. citizen employees] as irrelevant. Ali’s complaint states he is a U.S. citizen. As a result, the production of data regarding employees who are not U.S. citizens or H1-B visa holders is neither relevant nor proportional to the needs of the case.”). Google further objects to this request on the grounds that it seeks information concerning “means, choices, or options Google offers to Google users or websites” that do not relate to private browsing. For these reasons, Google will not produce a witness to testify on this Topic.

TOPIC NO. 4:

Back to June 1, 2014, Google’s disclosures to, agreements with, or requirements for websites that use Google technologies regarding Google’s data collection practices when users are in private browsing mode, including but not limited to:

- a. What Google discloses to websites regarding Google’s data collection practices when users are in private browsing mode;
- b. Where (if at all) Google discloses to websites its data collection practices when users are in private browsing mode;

- 1 c. Whether Google requires websites to disclose to website visitors that Google tracks
 2 website visitors even when they are in private browsing mode; and
 3 d. How Google requires websites that use Google technologies to disclose to their
 4 website visitors how and when websites override user privacy choices elected with
 5 Google, including choosing private browsing mode to browse the web privately.

6 **RESPONSE TO TOPIC NO. 4:**

7 Google incorporates its General Objections as if set forth fully herein. Google further objects
 8 to this Topic to the extent it seeks information outside of the proposed Class Period, which
 9 information is irrelevant. Google further objects to this Topic to the extent it seeks information
 10 regarding “disclosures to, agreements with, or requirements for websites that use Google
 11 technologies” other than Google Analytics and Google Ad Manager. Google offers numerous
 12 technology-based products and services to websites, but the class definition in this case is limited to
 13 users who visited websites that use Google Analytics and Google Ad Manager. Google further
 14 objects to the term “tracks,” which is neither self-evident nor defined, on the ground that it is vague
 15 and ambiguous. Google further objects to sub-Topic (d) because it is unintelligible. Google does
 16 not “require websites that use Google technologies to disclose how and when websites override user
 17 privacy choices elected with Google” because Google does not itself, nor does it permit websites,
 18 to “override user privacy choices elected with Google.” Moreover, Google’s receipt of information
 19 from websites that use Google Analytics or Google Ad Manager does not “override user privacy
 20 choices elected with Google.” Subject to the foregoing objections, Google will produce a witness
 21 to testify on sub-Topics (a)-(c) to the extent they relate to Google Analytics and Google Ad
 22 Manager.

23
 24 DATED: June 11, 2021

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PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. I am employed in Los Angeles, California. My business address is 865 S. Figueroa Street, 10th Floor, Los Angeles, CA 90017.

On June 11, 2021, I served true copies of the following document(s) described as **DEFENDANT'S RESPONSES AND OBJECTIONS TO PLAINTIFFS' NOTICE OF RULE 30(b)(6) DEPOSITION** on the interested parties in this action as follows:

SEE ATTACHED LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION: I transmitted PDF format copies of the document(s) described above to the e-mail addresses on the attached Service List pursuant to the agreement between the parties to serve discovery, in lieu of other service methods, by email under Fed. R. Civ. P. 5(b)(2)(E) (*see* Joint Case Management Statement VIII(E), Docket No. 59). The documents were transmitted by electronic transmission and such transmission was reported as complete and without error.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 11, 2021 at Culver City, CA.

/s/ Alyssa G. Olson

Alyssa G. Olson

SERVICE LIST

Brown v. Google LLC

Case No. 5:20-cv-03664-LHK-SVK

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